

10. (Original) The semiconductor device according to claim 1, further comprising an interlayer insulating film formed between said gate electrodes adjacent to each other, and a film that has a low specific inductive capacity at least lower than the specific inductive capacity of a silicon oxide film, said film being formed on said interlayer insulating film and said gate electrode.

B1
Cont. 11. (Original) The semiconductor device according to claim 1, further comprising a contact electrode connected to said gate electrode on said gate electrode, and connected to one of said impurity diffusion layers.

Claims 12-20 (Withdrawn)



A DOCPHOENIX

APPL PARTS

_____ IMIS _____
Internal Misc. Paper
_____ LET. _____
Misc. Incoming Letter

_____ 371P _____
PCT Papers in a 371 Application

_____ A... _____
Amendment Including Elections

_____ ABST _____
Abstract

_____ ADS _____
Application Data Sheet

_____ AF/D _____
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_____ APPENDIX _____
Appendix

_____ ARTIFACT _____
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_____ BIB _____
Bib Data Sheet

_____ CLM _____
Claim

_____ COMPUTER _____
Computer Program Listing

_____ CRFL _____
All CRF Papers for Backfile

_____ DIST _____
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_____ DRW _____
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_____ NPL _____
Non-Patent Literature

_____ OATH _____
Oath or Declaration

_____ PET. _____
Petition

_____ RETMAIL _____
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_____ SEQLIST _____
Sequence Listing

_____ SPEC _____
Specification

_____ SPEC NO _____
Specification Not in English

_____ TRNA _____
Transmittal New Application

_____ CTNF _____
Count Non-Final

_____ CTRS _____
Count Restriction

_____ EXIN _____
Examiner Interview

_____ M903 _____
DO/EO Acceptance

_____ M905 _____
DO/EO Missing Requirement

_____ NFDR _____
Formal Drawing Required

_____ NOA _____
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_____ AP.B _____
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_____ C.AD _____
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_____ REM 8 _____
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_____ XT/ _____
Extension of Time filed separate

BACKFILE DOCUMENT INDEX SHEET

Internal

_____ SRNT _____
Examiner Search Notes

_____ CLMPTO _____
PTO Prepared Complete Claim Set

_____ ECBOX _____
Evidence Copy Box Identification

_____ WCLM _____
Claim Worksheet

_____ WFEE _____
Fee Worksheet

File Wrapper

_____ FWCLM _____
File Wrapper Claim

_____ IIFW _____
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_____ SRFW _____
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REMARKS

At the time of the Office Action dated January 15, 2003, claims 1-20 were pending in this application. Of those claims, claims 1-11 have been rejected and claims 12-20 have been withdrawn from consideration pursuant to the provisions of 37 C.F.R. § 1.142(b). Claim 1 has been amended to recite that a first insulating film is in contact with a semiconductor substrate, consistent with the paragraph spanning pages 10 and 11 of Applicants' originally-filed disclosure. Claim 2 has been cancelled. Claims 5-7 have been amended to be placed in independent form. Claim 6 has also been amended to recite that the thickness of a second insulating film on the top surface of a gate electrode is greater than the thickness of the second insulating film on the surface of a semiconductor substrate, consistent with page 16 of the disclosure. Applicants submit that the present Amendment does not generate any new matter issue.

Claim 2 is objected under 37 C.F.R. § 1.75(c)

Claim 2 has been cancelled. As such, the Examiner's objection to claim 2 is moot.

Claims 1-11 are rejected under the second paragraph of 35 U.S.C. § 112

On the second page of the statement of the rejection, the Examiner asserted that the use of the word "substantially" in claims 1 and 7 renders the claimed invention indefinite. This basis for the rejection is respectfully but vigorously traversed.

Applicants incorporate herein the arguments previously presented in the Amendment filed October 22, 2002, regarding this issue. On page five of the Office Action, the Examiner responded by asserting:

Regarding "substantially", applicant [sic] argues that such language is employed so that the thickness recited is not uniform to the nth degree. Nonetheless, such meaning is not characterized from the original disclosure. It remains that the degree of variation cannot be determined from the specification.

The issue of whether the term "substantially" is indefinite was recently revisited by the Federal Circuit in Verve, LLC v. Crane Cams, Inc., Case No. 01-1417 (Fed. Cir. November 14, 2002). The case was brought on appeal before the Federal Circuit after the district court determined the expression "substantially constant wall thickness" was indefinite for lack in the specification or prosecution history of "a sufficiently clear definition of 'substantially'." The Federal Circuit, however, disapproved of the district court's analysis that the term "substantially" was indefinite because it was not further defined in the specification. As stated by the Federal Circuit:

Patent documents are written for persons familiar with the relevant field; the patentee is not required to include in the specification information readily understood by practitioners, lest every patent be required to be written as a comprehensive tutorial and treatise for the generalist, instead of a concise statement for persons in the field.

The Federal Circuit then relied upon previous case law, which described "substantially" as "a descriptive term commonly used in patent claims 'to avoid a strict numerical boundary to the specified parameter.'" The Federal Circuit concluded with regard to the indefiniteness issue by holding:

It is well establish that when the term "substantially" serves reasonably to describe the subject matter so that its scope would be understood by persons in the field of the invention, and to distinguish the claimed subject matter from the prior art, it is not indefinite. (emphasis added)